

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-2035-PWS-E    TCEQ ID: RN102886892    CASE NO.: 27681**  
**RESPONDENT NAME: CITY OF MARLIN**

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<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATIONS OCCURRED:** 1.7 miles from the intersection of FM Road 147 and Highway 6, immediately south of the dam for Marlin City Lake, Marlin, Falls County

**TYPE OF OPERATION:** Public water system

**SMALL BUSINESS:**    ☐ Yes    ☒ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired October 26, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**SEP Coordinator:** Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223

**TCEQ Enforcement Coordinator:** Mr. Harvey Wilson, Air Enforcement Section, MC 219, (512) 239-0321

**TCEQ Regional Contact:** Mr. Frank Burleson, Waco Regional Office, MC R-9, (254) 761-3001

**Respondent:** The Honorable Norman Erskine, Mayor, City of Marlin, 101 Fortune Street, Marlin, Texas 76661

**Respondent's Attorney:** Mr. Michael Dixon, Attorney, Haley & Olson, P.C., 510 North Valley Mills Drive, Suite 600, Waco, Texas 76710

**RESPONDENT NAME: CITY OF MARLIN**  
**DOCKET NO.: 2005-2035-PWS-E**

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**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p> <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review         </p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 19, 2005</p> <p><b>Date of NOE Relating to this Case:</b> December 2, 2005</p> <p><b>Background Facts:</b> The EDRP was filed on March 20, 2006. The Respondent filed an answer, and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on September 8, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>PWS:</b></p> <ol style="list-style-type: none"> <li>Failed to provide an operational flow measuring device to measure the raw water supplied to the plant, treated water used to backwash the filters, and the backwash lagoon decant water; failed to provide rate-of-flow controllers with rate-of-flow indicators for each filter unit; and failed to equip each filter unit with an on-line turbidimeter or a device to indicate loss of head through the filter [30 TEX. ADMIN. CODE § 290.42(d)(5), (d)(11)(D)(i), (d)(11)(E)(ii), and (d)(11)(E)(v) and Agreed Order Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.ii.].</li> <li>Failed to properly conduct and record the verification of the accuracy of the manual disinfectant residual analyzer, failed to calibrate the raw water flow meter, and failed to calibrate the continuous on-line disinfectant residual analyzer [30 TEX. ADMIN. CODE § 290.46(s)(1), (s)(2)(C)(i) and (s)(2)(C)(ii), and Agreed Order Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.vi.].</li> </ol>	<p><b>Total Assessed:</b> \$43,880</p> <p><b>Total Deferred:</b> \$43,880</p> <p> <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input checked="" type="checkbox"/> SEP Conditional Offset         </p> <p><b>Total Due to General Revenue:</b> \$0</p> <p>The administrative penalty shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP) as defined in Attachment A. The Respondent's obligation to pay the conditionally offset portion shall be discharged upon final completion of all provisions of the SEP agreement.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor         </p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor         </p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> The violation is a gross deviation from a standard of conduct common in a given industry defined as absence of management practices designed to ensure compliance.</p>	<p><b>Corrective Actions Taken:</b></p> <ol style="list-style-type: none"> <li>The Executive Director recognizes that the Respondent changed the number of sampling site locations in the Facility's monitoring plan from nine to seven.</li> <li>The Executive Director recognizes that the Respondent is currently building a new water treatment plant, and that the following components of the new water treatment plant are complete:             <ol style="list-style-type: none"> <li>The raw water pump station;</li> <li>The influent splitter box;</li> <li>The filter feed wet well;</li> <li>The membrane building;</li> <li>The ground storage tank; and</li> <li>The generator.</li> </ol> </li> </ol> <p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <p>Implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <ol style="list-style-type: none"> <li>Within 15 days:             <ol style="list-style-type: none"> <li>Establish and maintain a system whereby the water system's operating records are available for review during investigations;</li> <li>Implement a maintenance program to ensure the reliability and general appearance of the Facility in order to reduce costly repairs due to a lack of proper maintenance, including removing the excessive amount of overgrown weeds at the surface water treatment plant and at the fence at the Depot elevated tank site, and repair the barbed wire fence at the Depot; and</li> <li>Install additional labels on the liquid ammonium sulfate and polymer feed lines at the surface water treatment plant to ensure that they are properly labeled within five-foot intervals, and label the polymer tank to identify the tank's contents.</li> </ol> </li> <li>Within 30 days, submit written certification demonstrating compliance with Ordering Provision Nos. 1.a. through 1.c.</li> <li>Within 75 days:             <ol style="list-style-type: none"> <li>Employ the necessary operators to ensure that the Facility has the required operators when it is in operation; and</li> <li>Establish a restricted zone of 200 feet radius from the raw water intake works in the city ordinances or the rules and regulations adopted by the city, and install buoys at the raw water intake structure to designate these boundary limits.</li> </ol> </li> </ol>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to provide, at any residence or establishment where an actual or potential contamination hazard exists, additional protection at the meter in the form of an air gap or back-flow prevention assembly, failed to have properly installed air releases in the distribution system to preclude the possibility of submergence or possible entrance of contaminants, and failed to provide an air gap on the filter-to-waste connection [30 TEX. ADMIN. CODE §§ 290.42(d)(2)(E), 290.44(d)(1) and (h)(1)(A) and Agreed Order Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.ii.].</p> <p>4. Failed to make the water system's operating records available for review during the investigation [30 TEX. ADMIN. CODE § 290.46(f)(2)].</p> <p>5. Failed to monitor for microbial contamination at locations specified in the system's monitoring plan [30 TEX. ADMIN. CODE § 290.109(c)(1)(B)].</p> <p>6. Failed to maintain an up-to-date chemical and microbiological monitoring plan [30 TEX. ADMIN. CODE § 290.121].</p> <p>7. Failed to have at least one Class "C" or higher surface water operator on duty at the plant when it is in operation or failed to provide the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the plant is not staffed [30 TEX. ADMIN. CODE § 290.46(e)(6)(C) and Agreed Order Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.iv.].</p> <p>8. Failed to provide facility security by having all potable water storage tanks and pressure maintenance facilities installed in a lockable building designed to prevent intruder access or enclosed by an intruder resistant fence with lockable gates and failed to maintain plant facilities in a manner to ensure the reliability and general appearance of the system's facilities [30 TEX. ADMIN. CODE §§ 290.43(e) and 290.46(m)].</p>		<p>4. Within 90 days, submit written certification demonstrating compliance with Ordering Provisions 3.a. and 3.b.</p> <p>5. Within 120 days:</p> <p>a. Implement a procedure or schedule that ensures each of the seven sample site locations are used at least once annually for disinfectant residual sample collection;</p> <p>b. Implement monitoring for the disinfectant residual in the distribution system according to the facility monitoring plan; and</p> <p>c. Amend or modify the chemical and microbiological monitoring plan to include all components, specifically chemical monitoring information.</p> <p>6. Within 120 days either:</p> <p>a. Properly conduct and record the verification of the accuracy of the manual disinfectant residual analyzer, the raw flow meter, and the on-line disinfectant residual analyzer; or</p> <p>b. Ensure that the new water treatment plant properly conducts and records the verification of the accuracy of the manual disinfectant residual analyzer, the raw flow meter, and the on-line disinfectant residual analyzer.</p> <p>7. Within 120 days either:</p> <p>a. Establish and begin enforcing a formal cross-connection control program throughout the distribution system by: A) installing a backflow prevention assembly or an air gap at the Falls County Hospital; B) re-constructing the two air release devices on FM 147 that are located in below ground vaults to preclude the possibility of submergence; and C) installing an air gap on the filter-to-waste connection at the surface water treatment plant; or</p> <p>b. Establish and begin enforcing a formal cross-connection control program throughout the distribution system by: A) installing a backflow prevention assembly or an air gap at the Falls County Hospital and B) cease operating the existing Facility.</p> <p>8. Within 135 days submit written certification demonstrating compliance with Ordering Provision Nos. 5.a. through 7.b., as applicable.</p> <p>9. Within 365 days, submit written certification that the new water treatment plant has been completed and placed into operation.</p> <p>10. Within 15 days of the new water treatment plant being completed and placed into operation:</p>

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>9. Failed to provide a positive seal when the hatch is closed; failed to equip vents with an approved screen to prevent entry of animals, birds, insects, and heavy air contaminants; and failed to design overflows in strict accordance with current American Water Works Association ("AWWA") standards, terminating with a gravity hinged and weighted cover, having a pressure gauge that is not less than three inches in diameter and calibrated in not more than two foot intervals and providing overflows and other appurtenances as specified in the AWWA standards [30 TEX. ADMIN. CODE § 290.43(c), (c)(1), (c)(2), (c)(3), and (c)(4) and Agreed Order Docket No. 2003-0215-MLM-E, Ordering Provision Nos. 3.a.x., 3.a.xi. and 3.c.iii.].</p> <p>10. Failed to have all water treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances maintained in a watertight condition and free of excessive solids [30 TEX. ADMIN. CODE § 290.46(m)(4)].</p> <p>11. Failed to monitor the disinfectant residual at representative locations in the distribution system [30 TEX. ADMIN. CODE § 290.110(c)(5)(C)].</p> <p>12. Failed to establish a restricted zone of 200 feet radius from the raw water intake works and all recreational activities [30 TEX. ADMIN. CODE § 290.41(e)(2)(C)].</p> <p>13. Failed to identify influent, effluent, waste backwash and chemical feed lines by the various use of labels or different colors of paint that shall be placed at intervals of no greater than five feet and failed to label all chemical day tanks [30 TEX. ADMIN. CODE § 290.42(d)(13) and (f)(1)(C)].</p>		<p>a. Implement a maintenance program to ensure that:</p> <ul style="list-style-type: none"> <li>i. all roof hatches on clearwells are provided gaskets that make a positive seal;</li> <li>ii. all roof vents are equipped with approved screens;</li> <li>iii. all overflow pipe covers seal properly when closed;</li> <li>iv. an approved pressure gauge is installed on each elevated tank; and</li> <li>v. overflow pipes are installed on all clearwells; and</li> </ul> <p>b. Ensure that all equipment, including the high service pump at the surface water treatment plant is repaired and kept in a watertight condition.</p> <p>11. Within 30 days of the new water treatment plant being completed and placed into operation, submit written certification demonstrating compliance with Ordering Provision Nos. 10.a. through 10.b.</p> <p>12. Within 45 days of the new water treatment plant being completed and placed into operation, show that the new water treatment plant provides continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms.</p> <p>13. Within 60 days of the new water treatment plant being completed and place into operation, submit written certification demonstrating compliance with Ordering Provision No. 12.</p> <p>14. Within 75 days of the new water treatment plant being completed and placed into operation:</p> <ul style="list-style-type: none"> <li>a. Provide flow measuring devices to measure the raw water supplied to the plant, the recycled decant water, the treated water used to backwash the filters, the treated water discharged from the new water treatment plant, and rate-of-flow controllers with rate of flow indicators for the filter units; and</li> <li>b. Provide each of the filter units with recorders to measure and record the turbidity level of the combined filter effluent and the transmembrane pressure through the filters.</li> </ul> <p>15. Within 90 days after the effective date of this Order, submit written certification demonstrating compliance with Ordering Provision Nos. 14.a. and 14.b.</p>

**Attachment A**  
**Docket Number: 2005-2035-PWS-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Marlin  
**Penalty Amount:** Forty-three thousand eight hundred eighty dollars (\$43,880)  
**SEP Amount:** Forty-three thousand eight hundred eighty dollars (\$43,880)  
**Type of SEP:** Pre-approved SEP  
**Third-Party Recipient:** Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Cleanup of Unauthorized Trash Dumps*  
**Location of SEP:** Falls County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

Respondent shall contribute the SEP Amount to the Third-Party Recipient named above. The contribution will be to the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for the Cleanup of Unauthorized Trash Dumps project as set forth in an agreement between the Third-Party Recipient and the TCEQ. Any remaining SEP funds after completion of the Trash Dump Cleanup may, upon approval of the Executive Director, be spent on another approved RC&D project to be conducted within Falls County. Specifically, SEP monies will pay for the labor and disposal costs associated with proper clean up and disposal of wastes, debris, or abandoned tires, assistance to low-income residents with failing on site wastewater systems, plugging of abandoned wells, antifreeze recycling, or other approved project. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

The unauthorized trash dump clean up project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP. Respondent shall make 36 monthly payments to the Third Party Recipient as described in Section 2, **Performance Schedule** below.

## **2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall make one payment of \$1,250 followed by 35 monthly payments of \$1,218 for a total of \$43,880 to the Third Party Recipient. Respondent shall mail a copy of the Final Agreed Order with the first contribution, to:

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

Thereafter, each payment will be due on the fifteenth day of each month.

## **3. Records and Reporting**

Concurrent with the each SEP payment, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter sent to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

## **5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned	12-Dec-2005	Screening	21-Dec-2005	EPA Due	
	PCW	02-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Marlin
Reg. Ent. Ref. No.	RN102886892
Facility/Site Region	9-Waco
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	27681	No. of Violations	13
Docket No.	2005-2035-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$24,360**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 80% Enhancement Subtotals 2, 3, & 7 **\$19,488**

Notes: A 80% upward adjustment was made for three NOVs with same/similar violations, 20 NOVs with non-similar violations, and one Findings Order.

**Culpability** No 0% Enhancement Subtotal 4 **\$0**

Notes: The respondent does not meet the culpability criteria.

**Good Faith Effort to Comply** 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The facility is not yet in compliance.

**Economic Benefit** 0% Enhancement\* Subtotal 6 **\$0**

Total EB Amounts	\$680
Approx. Cost of Compliance	\$6,500

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$43,848**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount **\$43,848**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$43,880**

**DEFERRAL** 0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral recommended with a Findings Order.

**PAYABLE PENALTY** **\$43,880**



**Screening Date** 21-Dec-2005      **Docket No.** 2005-2035-PWS-E      **PCW**  
**Respondent** City of Marlin      *Policy Revision 2 (September 2002)*  
**Case ID No.** 27681      *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN102886892  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** J. Craig Fleming

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	3	15%
	Other written NOVs	20	40%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )		0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 80%

>> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

**Compliance History Notes**

A 80% upward adjustment was made for three NOVs with same/similar violations, 20 NOVs with non-similar violations, and one Findings Order.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 80%

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 1

Primary Rule Cite(s)

30 Tex. Admin. Code § 290.42(d)(5) and 290.42(d)(11)(D)(i),  
290.42(d)(11)(E)(ii), and 290.42(d)(11)(E)(v)

Secondary Rule Cite(s)

Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No.  
3.c.ii.

Violation Description

Failure to provide an operational flow measuring device to measure: 1) the raw water supplied to the plant, 2) treated water used to backwash the filters, and 3) the backwash lagoon decant water; failure to provide rate-of-flow controllers with rate-of-flow indicators for each filter unit; and failure to equip each filter unit with an on-line turbidimeter or a device to indicate loss of head through the filter. Specifically, there was not a flow measuring device to measure: 1) the recycled decant water, 2) the treated water used to backwash the filters, and 3) the treated water discharged from the plant. In addition, the four filter units were not equipped with 1) rate-of-flow controllers with rate of flow indicators and 2) an on-line turbidimeter and recorder to measure and record the turbidity level of the combined filter effluent or a device to indicate loss of head through the filter.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent <input type="text"/>
Matrix Notes	Failure to provide rate-of-flow controllers with rate-of-flow measuring devices could impair the system's ability to provide a safe and adequate supply of water to the public.				

Adjustment -\$750

Base Penalty Subtotal \$250

## Violation Events

Number of Violation Events 3

mark only one use a small x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Three quarterly events are recommended from the April 10, 2005 issuance date of Agreed Order Docket No. 2003-0215-MLM-E to the date of screening on December 21, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$117

Violation Final Penalty Total \$1,350

This violation Final Assessed Penalty (adjusted for limits) \$1,350

## Economic Benefit Worksheet

**Respondent** City of Marlin  
**Case ID No.** 27681  
**Reg. Ent. Reference No.** RN102886892  
**Media [Statute]** Public Water Supply  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment	\$1,200	10-Apr-2005	01-Sep-2006	1.4	\$6	\$112	\$117
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to install flow measuring devices. The Date required is the issuance date of the previous order. The Final Date is the expected date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: NA

Approx. Cost of Compliance **\$1,200**

**TOTAL \$117**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 2

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 290.46(s)(1), 290.46(s)(2)(C)(i),  
290.46(s)(2)(C)(ii)

Secondary Rule Cite(s)

Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No.  
3.a.vi.

Violation Description

Failure to properly conduct and record the verification of the accuracy of the manual disinfectant residual analyzer, failure to calibrate the raw water flow meter, and failure to calibrate the continuous on-line disinfectant residual analyzer. Specifically, the verification of the accuracy of the manual disinfectant residual analyzer using chlorine solutions of known concentration had not been conducted within the last thirty days. The raw flow meter was not calibrated during the previous twelve months. The continuous on-line disinfectant residual analyzer was not calibrated every 90 days as required during the period from January 2005 through May 2005.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

		Harm			Percent
Release		Major	Moderate	Minor	
Actual	Potential				
					50%

## &gt;&gt; Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent
Matrix Notes						
	Failure to properly calibrate the testing equipment could result in partially treated or untreated water being distributed to the public.					

Adjustment -\$500

Base Penalty Subtotal \$500

## Violation Events

Number of Violation Events 9

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,500

Nine monthly events are recommended from the April 10, 2005 issuance date of Agreed Order Docket No. 2003-0215-MLM-E to the date of screening on December 21, 2005.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$8,100

This violation Final Assessed Penalty (adjusted for limits) \$8,100

## Economic Benefit Worksheet

Respondent City of Marlin  
 Case ID No. 27681  
 Reg. Ent. Reference No. RN102886892  
 Media [Statute] Public Water Supply  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	10-Apr-2005	01-Aug-2006	1.3	\$33	n/a	\$33

Notes for DELAYED costs: Estimated cost to properly calibrate and establish a calibration schedule for the equipment.  
 The Date Required is the issuance date of the previous order. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: NA

Approx. Cost of Compliance **\$500**

**TOTAL \$33**

**Screening Date** 21-Dec-2005 **Docket No.** 2005-2035-PWS-E **PCW**  
**Respondent** City of Marlin *Policy Revision 2 (September 2002)*  
**Case ID No.** 27681 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN102886892  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** J. Craig Fleming  
**Violation Number** 3

**Primary Rule Cite(s)** 30 Tex. Admin. Code §§ 290.42(d)(2)(E), 290.44(d)(1), and 290.44(h)(1)(A)

**Secondary Rule Cite(s)** Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.ii

**Violation Description** Failure to provide, at any residence or establishment where an actual or potential contamination hazardous exists, additional protection at the meter in the form of an air gap or back-flow prevention assembly, failure to have properly installed air releases in the distribution system to preclude the possibility of submergence or possible entrance of contaminants, and failure to have an air gap on the filter-to-waste connection. Specifically, there was not a backflow prevention assembly or an air gap at the Falls County Hospital, Adam's Funeral Home, Model Laundry and Dry Cleaning, G. Glenn Rose, D.D.S., Hands on Quality Detail Carwash, City Cleaners, Falls Community Rural Health Clinic, Companion Animal Clinic, and James Bryan, D.D.S. in Marlin, two air release devices in the distribution system on FM 147 are located in below ground vaults, and there was not an air gap on the filter-to-waste connection at the surface water treatment plant.

**Base Penalty** \$1,000

>> **Environmental, Property and Human Health Matrix**

	<b>Harm</b>		
<b>Release</b>	Major	Moderate	Minor
Actual			
Potential			

**Percent**

>> **Programmatic Matrix**

<b>Falsification</b>	Major	Moderate	Minor
X			

**Percent** 100%

**Matrix Notes** Not having an adequate cross-connection control program will or could expose human health or the environment to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. Falsification was alleged when the City certified compliance with Agreed Order Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.ii. in a letter dated July 15, 2005 and the investigation documented the continuing violation on October 19, 2005.

**Adjustment** \$0

**Base Penalty Subtotal** \$1,000

**Violation Events**

**Number of Violation Events** 9

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$9,000

Nine monthly events are recommended from the April 10, 2005 issuance date of Agreed Order Docket No. 2003-0215-MLM-E to the date of screening on December 21, 2005.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$7

**Violation Final Penalty Total** \$16,200

**This violation Final Assessed Penalty (adjusted for limits)** \$16,200

## Economic Benefit Worksheet

Respondent City of Marlin  
Case ID No. 27681  
Reg. Ent. Reference No. RN102886892  
Media [Statute] Public Water Supply  
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	10-Apr-2005	01-Aug-2006	1.3	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to establish and enforce a formal cross-connection control program. The Date Required is the issuance date of the previous order. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$100**

**TOTAL \$7**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(2)

Secondary Rule Cite(s)

Violation Description

Failure to provide the water system's operating records available for review during inspections. Specifically, the following records were not available: 1) Verification of ANSI/NSF Standard 61 for the interior tank coating for the Royal elevated tank, 2) drought contingency plan, and 3) a verification of plumbing code ordinance.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Most, but not all (at least 70%) of a rule requirement was met.

Adjustment -\$990

Base Penalty Subtotal \$10

## Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$10

One single event is recommended based on the investigation date of October 19, 2005.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$18

This violation Final Assessed Penalty (adjusted for limits) \$50



## Economic Benefit Worksheet

Respondent City of Marlin  
Case ID No. 27681  
Reg. Ent. Reference No. RN102886892  
Media [Statute] Public Water Supply  
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	19-Oct-2005	01-Jul-2006	0.7	\$3	n/a	\$3
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to establish and maintain the required record systems. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance **\$100**

**TOTAL \$3**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(1)(B)

Secondary Rule Cite(s)

Violation Description

Failure to monitor for microbial contamination at locations specified in the system's monitoring plan. Specifically, the Facility failed to monitor one of the nine sample site locations specified in the monitoring plan for any of the seven routine distribution samples during the previous twelve months.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

		Harm			Percent
OR	Release	Major	Moderate	Minor	
	Actual				
	Potential			X	

Percent 10%

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent

Matrix Notes

By failing to monitor at each of the required sites, the system will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment -\$900

Base Penalty Subtotal \$100

## Violation Events

Number of Violation Events 12

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,200

Twelve single events are recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$263

Violation Final Penalty Total \$2,160

This violation Final Assessed Penalty (adjusted for limits) \$2,160

## Economic Benefit Worksheet

Respondent City of Marlin  
Case ID No. 27681  
Reg. Ent. Reference No. RN102886892  
Media [Statute] Public Water Supply  
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	NA						

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$250	19-Oct-2004	19-Oct-2005	1.0	\$13	\$250	\$263
Notes for AVOIDED costs	Estimated cost of properly monitoring the system.						

Approx. Cost of Compliance **\$250**

**TOTAL \$263**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 6

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.121

Secondary Rule Cite(s)

Violation Description Failure to maintain an up-to-date chemical and microbiological monitoring plan. Specifically, the plan was not up-to-date because it did not provide chemical monitoring information.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

		Harm			Percent
OR	Release	Major	Moderate	Minor	
	Actual				
	Potential				

## &gt;&gt; Programmatic Matrix

		Falsification	Major	Moderate	Minor	Percent
			X			
Matrix Notes	100 % of the rule requirement was not met.					25%

Adjustment -\$750

Base Penalty Subtotal \$250

## Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$250

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$450

This violation Final Assessed Penalty (adjusted for limits) \$450

## Economic Benefit Worksheet

Respondent City of Marlin  
Case ID No. 27681  
Reg. Ent. Reference No. RN102886892  
Media [Statute] Public Water Supply  
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	19-Oct-2005	01-Jul-2006	0.7	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to update the monitoring plan. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance **\$100**

**TOTAL \$3**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 7

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(6)(C)

Secondary Rule Cite(s)

Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.iv.

Violation Description

Failure to have at least one Class "C" or higher surface water operator on duty at the plant when it is in operation or failure to provide the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the plant is not staffed. Specifically, the City neither employs enough class "C" or higher surface water operators to have on duty when the plant is in operation nor provides the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	X			

## &gt;&gt; Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	

Matrix Notes

Failure to have at least one Class "C" surface water operator on duty at the surface water treatment plant when it is in operation or to provide the plant with functional continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms could allow a significant amount of pollutants to enter the system which would exceed levels that are protective of human health.

Adjustment -\$500

Base Penalty Subtotal \$500

## Violation Events

Number of Violation Events 9

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,500

Nine monthly events are recommended from the April 10, 2005 issuance date of Agreed Order Docket No. 2003-0215-MLM-E to the date of screening on December 21, 2005.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$164

Violation Final Penalty Total \$8,100

This violation Final Assessed Penalty (adjusted for limits) \$8,100

## Economic Benefit Worksheet

Respondent City of Marlin  
Case ID No. 27681  
Reg. Ent. Reference No. RN102886892  
Media [Statute] Public Water Supply  
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	10-Apr-2005	01-Aug-2006	1.3	\$164	n/a	\$164

Notes for DELAYED costs: Estimated cost to install monitors with automatic plant shutdowns or employ an adequate number of class "C" operators. The Date Required is the issuance date of the previous order. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: NA

Approx. Cost of Compliance **\$2,500**

**TOTAL** **\$164**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 8

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 290.43(e) and 290.46(m)

Secondary Rule Cite(s)

Violation Description

Failure to provide facility security by having all potable water storage tanks and pressure maintenance facilities installed in a lockable building designed to prevent intruder access or enclosed by an intruder resistant fence with lockable gates and failed to maintain plant facilities in a manner to ensure the reliability and general appearance of the system's facilities. Specifically, it was documented that: 1) there was an excessive amount of overgrown weeds at the surface water treatment plant, 2) the fence at the Depot elevated tank site was overgrown with vegetation, and 3) the barbed wire was hanging from the fence in several locations.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential			X	

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Failing to maintain the facilities will or could expose the system to insignificant amounts of pollutants which do not exceed levels that are protective of human health.

Adjustment -\$900

Base Penalty Subtotal \$100

## Violation Events

Number of Violation Events 2

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$200

Two single events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$360

This violation Final Assessed Penalty (adjusted for limits) \$360



## Economic Benefit Worksheet

Respondent City of Marlin  
 Case ID No. 27681  
 Reg. Ent. Reference No. RN102886892  
 Media [Statute] Public Water Supply  
 Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$250	19-Oct-2005	01-Jul-2006	0.7	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to repair and begin maintaining the facilities. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance **\$250**

**TOTAL \$9**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 9

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 290.43(c), 290.43(c)(1), 290.43(c)(2),  
290.43(c)(3), and 290.43(c)(4)

Secondary Rule Cite(s)

Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No.  
3.a.x., 3.xi, and 3.c.iii.

Violation Description

Failure to provide a positive seal when the hatch is closed, failure to equip vents with an approved screen to prevent entry of animals, birds, insects, and heavy air contaminants, and failure to design overflows in strict accordance with current American Water Works Association ("AWWA") standards, terminating with a gravity hinged and weighted cover, having a pressure gauge that is not less than three inches in diameter and calibrated in not more than two-foot intervals and providing overflows and other appurtenances as specified in the AWWA standards. Specifically, it was documented that: 1) the roof hatch for clearwell No. 2 does not seal properly when closed and must be provided with a gasket to make a positive seal; 2) the roof vent screen on the clearwell No. 2 was torn; 3) the overflow pipe covers did not seal properly when closed on the Depot elevated tank, Hobby elevated tank, Royal elevated tank, and clearwell No. 2; 4) the Hobby elevated tank had a pressure gauge less than three inches in diameter and calibrated in pounds per square inch; and 5) clearwell No. 1 does not have an overflow pipe.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		X		

## &gt;&gt; Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	

Matrix Notes Failure of the facility to meet the standards of AWWA specifications could allow significant amounts of pollutants to enter the system that would not exceed levels that are protective of human health.

Adjustment -\$750

Base Penalty Subtotal \$250

## Violation Events

Number of Violation Events 3

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Three quarterly events are recommended based on the April 10, 2005 issuance date of Agreed Order Docket No. 2003-0215-MLM-E to the to the date of screening on December 21, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$61

Violation Final Penalty Total \$1,350

This violation Final Assessed Penalty (adjusted for limits) \$1,350

## Economic Benefit Worksheet

Respondent City of Marlin  
 Case ID No. 27681  
 Reg. Ent. Reference No. RN102886892  
 Media [Statute] Public Water Supply  
 Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	10-Apr-2005	01-Jul-2006	1.2	\$61	n/a	\$61

Notes for DELAYED costs

Estimated cost to provide and install the necessary equipment. The Date Required is the issuance date of the previous order. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance **\$1,000**

**TOTAL \$61**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 10

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.46(m)(4)

Secondary Rule Cite(s)

Violation Description

Failure to have all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances maintained in a watertight condition and be free of excessive solids. Specifically, the valve on the high service pump at the surface water treatment plant was leaking.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				
	Potential			X	Percent 10%

## &gt;&gt; Programmatic Matrix

		Falsification	Major	Moderate	Minor	
						Percent
Matrix Notes	By failing to maintain the high service pump in proper working order, the system could be exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health.					

Adjustment -\$900

Base Penalty Subtotal \$100

## Violation Events

Number of Violation Events 1

		daily	
		monthly	
mark only one		quarterly	
use a small x		semiannual	
		annual	
	single event	X	

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$180

This violation Final Assessed Penalty (adjusted for limits) \$180

## Economic Benefit Worksheet

Respondent City of Marlin  
 Case ID No. 27681  
 Reg. Ent. Reference No. RN102886892  
 Media [Statute] Public Water Supply  
 Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment	\$100	19-Oct-2005	01-Jul-2006	0.7	\$0	\$5	\$5
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the clay valve on the high service pump. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance **\$100**

**TOTAL \$5**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 11

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.110(c)(5)(C)

Secondary Rule Cite(s)

Violation Description

Failure to monitor the disinfectant residual at representative locations in the distribution system. Specifically, the disinfectant residual was not being monitored in the distribution system, but was being monitored only at the surface water treatment plant.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	X			

## &gt;&gt; Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	

Matrix Notes: Failing to monitor the disinfectant residuals in the distribution system will or could expose the system to significant amounts of pollutants which would exceed levels that are protective of human health.

Adjustment -\$500

Base Penalty Subtotal \$500

## Violation Events

Number of Violation Events 3

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,500

Three monthly events are recommended based on the investigation conducted on October 19, 2005 to the screening date of December 21, 2005.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,700

This violation Final Assessed Penalty (adjusted for limits) \$2,700

## Economic Benefit Worksheet

Respondent City of Marlin  
Case ID No. 27681  
Reg. Ent. Reference No. RN102886892  
Media [Statute] Public Water Supply  
Violation No. 11

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$100	19-Oct-2005	01-Jul-2006	0.7	\$3	n/a	\$3
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to establish and conduct the proper monitoring in the distribution system. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: NA

Approx. Cost of Compliance **\$100**

**TOTAL \$3**

**Screening Date** 21-Dec-2005 **Docket No.** 2005-2035-PWS-E **PCW**  
**Respondent** City of Marlin *Policy Revision 2 (September 2002)*  
**Case ID No.** 27681 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN102886892  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** J. Craig Fleming

<b>Violation Number</b>	12
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 290.41(e)(2)(C)
<b>Secondary Rule Cite(s)</b>	
<b>Violation Description</b>	Failure to establish a restricted zone of 200 feet radius from the raw water intake works and all recreational activities. Specifically, the City of Marlin does not have a city ordinance to enforce the 200 foot restricted zone at the raw water intake, and there were no signs posted recounting the restrictions.

**Base Penalty** \$1,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				<b>Percent</b> 50%
	Potential	X			

>> **Programmatic Matrix**

		Harm			
Falsification		Major	Moderate	Minor	
					<b>Percent</b>

**Matrix Notes** Failure to establish a restricted zone near the raw water intake will or could expose human health to significant amounts of pollutants which would exceed levels that are protective of human health.

**Adjustment** -\$500

**Base Penalty Subtotal** \$500

**Violation Events**

**Number of Violation Events** 3

mark only one use a small x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$1,500

Three monthly events are recommended based on the investigation date of October 19, 2005 to the screening date of December 21, 2005.

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** \$10

**Statutory Limit Test**

**Violation Final Penalty Total** \$2,700

**This violation Final Assessed Penalty (adjusted for limits)** \$2,700



## Economic Benefit Worksheet

Respondent City of Marlin  
 Case ID No. 27681  
 Reg. Ent. Reference No. RN102886892  
 Media [Statute] Public Water Supply  
 Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$250	19-Oct-2005	01-Aug-2006	0.8	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to establish a city ordinance and place signs and/or buoys in the lake. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance **\$250**

**TOTAL \$10**

Screening Date 21-Dec-2005

Docket No. 2005-2035-PWS-E

PCW

Respondent City of Marlin

Policy Revision 2 (September 2002)

Case ID No. 27681

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102886892

Media [Statute] Public Water Supply

Enf. Coordinator J. Craig Fleming

Violation Number 13

Primary Rule Cite(s) 30 Tex. Admin. Code § 290.42(d)(13) and 290.42(f)(1)(C)

Secondary Rule Cite(s)

Violation Description

Failure to identify influent, effluent, waste backwash, and chemical feedlines by various use of labels or various colors of paint that shall be placed at intervals no greater than five feet and failed to label all chemical day tanks. Specifically, the liquid ammonium sulfate and polymer feed lines were identified with labels, but there were sections of the feed line that were not labeled within five-foot intervals, and the polymer day tank at the surface water treatment plant did not have a label identifying the tank's contents

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

## Harm

Release	Major	Moderate	Minor
Actual			
Potential			X

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to identify the feedlines and contents of the polymer tank will or could expose human health to insignificant amounts of pollutants which would not exceed levels that are protective of human health.

Adjustment -\$900

Base Penalty Subtotal \$100

## Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$180

This violation Final Assessed Penalty (adjusted for limits) \$180

## Economic Benefit Worksheet

Respondent City of Marlin  
Case ID No. 27681  
Reg. Ent. Reference No. RN102886892  
Media [Statute] Public Water Supply  
Violation No. 13

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$50	19-Oct-2005	01-Jul-2006	0.7	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to properly and adequately label the lines and tank. The Date Required was the date of the investigation. The Final Date is the expected date of compliance.

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

NA

Approx. Cost of Compliance **\$50**

**TOTAL \$2**

# Compliance History

Customer/Respondent/Owner-Operator: CN600506604 City of Marlin Classification: AVERAGE Rating: 2.760

Regulated Entity: RN102886892 MARLIN WTF Classification: AVERAGE Site Rating: 1.40

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0730002  
 WATER LICENSING LICENSE 0730002  
 WASTEWATER PERMIT TX0124621  
 WASTEWATER PERMIT TPDES0124621  
 WASTEWATER PERMIT WQ0010110003

Location: LOCATED 1.7 MILES FROM THE INTERSECTION OF FM ROAD 147 AND HIGHWAY 6, IMMEDIATELY SOUTH OF THE DAM FOR THE NEW MARLIN CITY LAKE IN FALLS COUNTY, TEXAS Rating Date: 9/1/05 Repeat Violator: NO

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: December 13, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 13, 2000 to December 13, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Craig Fleming Phone: 239-5806

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Comments:
- 7.

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

1. Effective Date: 4/10/05

ADMINORDER 2003-0215-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(1)(C)  
 30 TAC Chapter 290, SubChapter D 290.46(e)(1)(E)  
 5A THC Chapter 341, SubChapter A 341.033(a)

Description: Failure to have a cert Class "C" surface water operator on duty when the Facility was in operation or to provide the Facility with continuous turbidity and disinfectant residual monitors with automatic plant shutdown devices and alarms, and to employ at least two operators who possess a Class C or higher water operator

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(q)(3)  
 30 TAC Chapter 290, SubChapter F 290.111(b)(2)(A)[G]  
 30 TAC Chapter 290, SubChapter F 290.111(e)(1)  
 30 TAC Chapter 290, SubChapter F 290.111(g)(1)  
 30 TAC Chapter 290, SubChapter F 290.111(g)(2)  
 30 TAC Chapter 290, SubChapter F 290.122(a)(2)[G]

Description: Failure to notify the Executive Director and the water system customers of the acute violation by the next business day when the turbidity levels of the finished water produced by the surface water treatment plant exceeded 1.0 Nephelometric Units ("NTU").

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.111(c)[G]

Description: Failure to maintain the treatment process so that the combined filter effluent never exceeded 1.0 NTUs.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(2)(A)  
30 TAC Chapter 290, SubChapter F 290.110(c)[G]  
30 TAC Chapter 290, SubChapter F 290.110(d)(3)(C)(i)

Description: Failure to properly conduct continuous monitoring and recording of the disinfectant residual of the treated water entering the distribution system.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(F)(iii)

Description: Failure to maintain the rate of flow of backwash water to a minimum of 20 inches vertical rise per minute (12.5 gallons per minute/square foot).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failure to provide an operational flow measuring device to measure the raw water supplied to the plant, treated water used in backwashing the filters, and the backwash lagoon decant water.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(i)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)  
30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)[G]  
30 TAC Chapter 290, SubChapter F 290.119[G]

Description: Failure to calibrate the following: i. rate-of-flow controllers at least once every 12 months; ii. bench top pH meter at least once a day or calibrate according to manufacturers specifications; and iii. a continuous disinfectant residual analyzers at least once in 90 days using chlorine solutions for known concentration

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)  
30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)  
30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)  
30 TAC Chapter 291, SubChapter F 291.93(5)

Description: Failed to provide, at any residence or establishment where an actual or potential contamination hazard exists, additional protection at the meter in the form of an air gap or back flow prevention assembly, and failed to have properly installed air releases in the distribution system.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(E)(iv)  
30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failure to provide documentation of Customer Service Inspection reports.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(11)(E)(ii)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iv)  
30 TAC Chapter 290, SubChapter F 290.111(c)(4)  
30 TAC Chapter 290, SubChapter F 290.111(d)(4)

Description: Failure to measure and record turbidity levels of the treated water from each individual filter at least once per day when the plant is in operation, and failure to equip each filter on the effluent line, having a minimum capacity of 1.0 million gallons per day (MGD), with an on-line turbidimeter.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)[G]  
30 TAC Chapter 290, SubChapter D 290.46(m)  
30 TAC Chapter 290, SubChapter D 290.46(t)

Description: Failure to maintain all related appurtenances in a watertight condition and failure to properly maintain the system's facilities.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(15)(E)

Description: Failure to equip the facilities with means to measure the depth of the sludge-blanket in the sludge-blanket clarifiers at the water treatment plant.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)(A)

Description: Failure to provide a vacuum breaker on each hose bibb within the water treatment plant facility.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)  
30 TAC Chapter 290, SubChapter D 290.43(c)(2)  
30 TAC Chapter 290, SubChapter D 290.43(c)(3)  
30 TAC Chapter 290, SubChapter D 290.43(c)(4)  
30 TAC Chapter 290, SubChapter D 290.43(c)(8)

30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failed to modify the overflow pipe flap valve assembly on the Hobby, Royal, and Depot Units' elevated storage tank to provide no more than a 1/16 inch gap; failed to provide and secure with a 16-mesh or finer corrosion resistant screen on the air vent, roof hatch, cover, roof latch lock, screen openings and over flow

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)[G]  
30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failure to operate the water system to provide a minimum pressure of 35 pounds per square inch ("psi") throughout the distribution system under normal operating conditions.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)[G]  
30 TAC Chapter 290, SubChapter D 290.42(d)(6)(C)

Description: Failure to properly identify the influent, effluent, waste backwash, and chemical feedlines by the use of labels or various colors of paint.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)(I)  
30 TAC Chapter 290, SubChapter D 290.42(d)(6)(E)(ii)[G]

Description: Failure to provide adequate containment structures for all liquid chemical storage tanks.

Classification: Major

Citation: 30 TAC Chapter 288, SubChapter C 288.30(3)(B)

Description: Failure to submit a drought contingency plan.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)

Description: Failure to provide proper security for the Royal Street and Depot elevated storage tanks to prevent damage to the Facility by trespassers whenever the Facility was unattended.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]

Description: Failure to produce documentation of the annual tank inspection for the steel clearwell and concrete clear well, and the annual tank inspections for the Royal, Depot, and Hobby Unit elevated storage tanks, and the HJobby Unit ground storage tank.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)[G]  
30 TAC Chapter 290, SubChapter D 290.46(v)

Description: Failure to initiate a maintenance program to ensure the reliability and general appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.121[G]

Description: Failure to maintain an up-to-date bacterial site monitoring plan.

Classification: Major

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(i)  
30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)  
5A THC Chapter 341, SubChapter A 341.031(a)

Description: Failure to maintain the turbidity level of the combined filter effluent so as not to exceed 5.0 NTUs and failed to maintain the turbidity level of the combined filter effluent of 0.5 NTUs or less in at least 95% of the samples tested each month.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

2	03/17/2003	(236725)
4	03/03/2003	(236724)
6	03/05/2004	(255237)
8	04/16/2004	(329050)
10	04/16/2004	(329051)
12	05/28/2003	(60243)
14	02/07/2005	(428104)
16	11/22/2002	(12559)

18 04/16/2004 (329052)  
 20 04/18/2005 (428105)  
 22 05/30/2003 (329053)  
 24 07/18/2003 (329054)  
 26 05/25/2005 (428106)  
 28 04/16/2004 (329055)  
 30 04/16/2004 (329056)  
 32 02/07/2002 (143601)  
 34 02/25/2005 (372118)  
 36 04/16/2004 (329057)  
 38 02/14/2005 (347314)  
 40 04/16/2004 (329058)  
 42 04/16/2004 (329059)  
 44 12/23/2004 (340521)  
 46 04/16/2004 (329060)  
 48 04/16/2004 (329061)  
 50 06/03/2005 (378182)  
 52 05/14/2004 (368088)  
 54 04/28/2005 (390662)  
 56 05/14/2004 (368089)  
 58 11/18/2004 (390663)  
 60 06/08/2004 (368090)  
 62 07/21/2004 (368091)  
 64 12/30/2004 (390664)  
 66 09/20/2004 (368092)  
 68 01/11/2005 (390665)  
 70 10/08/2004 (368093)  
 72 11/20/2002 (12418)  
 74 06/05/2003 (61770)  
 76 05/28/2003 (60579)  
 78 12/05/2005 (434322)  
 80 12/30/2002 (16403)  
 82 01/21/2003 (236728)  
 84 12/30/2002 (236727)  
 86 04/24/2003 (236726)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

1. Date: 03/19/2004 (265811)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure to maintain all water related appurtenances in a watertight condition.
2. Date: 01/07/2005 (346502)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure to maintain the transmission line in a watertight condition.
3. Date: 01/31/2004 (329050)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter
4. Date: 02/29/2004 (329051)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter
5. Date: 01/31/2005 (428104)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter
5. Date: 03/31/2005 (428105)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter
7. Date: 06/30/2003 (329055)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter
8. Date: 04/30/2005 (428106)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

9. Date: 12/23/2004 (340521)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(ii)

Description: Failure to maintain the treatment processes for all water secured from surface sources so that at least 95% of the samples tested each month have a combined filter effluent of 0.30 NTU or less.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(1)(F)(iii)

Description: Failure to properly regulate the filter backwash process so as to achieve a rate of flow of backwash water that is at least twenty inches vertical rise per minute (12.5 gallons per minute per square foot) in order to be able to expand the filter media bed by at least 25% during the backwash cycle.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

30 TAC Chapter 290, SubChapter D 290.44(h)(1)(B)(i)

Description: Failure to have an adequate cross-connection control program.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)[G]

Description: Failure to establish a customer service inspection program.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)[G]

30 TAC Chapter 290, SubChapter D 290.46(r)

Description: Failure to design and maintain a water distribution system to provide at all times a minimum pressure of 35 pounds per square inch (psi) at flow rates of at least 1.5 gallons per minute at each service outlet or connection.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)

Description: Failure to maintain the transmission line in a watertight condition.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure to initiate a maintenance program to ensure the reliability and general appearance of all regulated facilities and reduce costly repairs due to a lack of proper maintenance.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(6)(C)

Description: Failure to have on duty a licensed Class C surface water operator when the surface water plant is in operation or provide with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(5)

Description: Failure to provide flow measuring devices for the raw water and the recycled decant water.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)

Description: Failure to calibrate at least once every twelve months all flow measuring devices and rate-of-flow controllers.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(i)

Description: Failure to conduct and record the verification of the accuracy of the manual disinfectant residual analyzer.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(ii)

Description: Failure to properly conduct and record the calibration of the continuous on-line disinfectant residual analyzer.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.111(b)(1)(A)(i)

Description: Failure to maintain the turbidity level so as not to exceed 1.0 NTU.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.111(e)(1)

Description: Failure to notify the executive director of a turbidity level exceeding 1.0 NTU.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(iii)

Description: Failure to properly conduct calibration checks of the continuous on-line disinfectant (chlorine) residual analyzer.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)[G]

Description: Failure to provide appropriate chlorine solutions of known concentrations to facilitate the calibration of equipment.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(1)

Description: Failure to properly screen the roof vent on the ground storage tank.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)

Description: Failure to provide an overflow pipe flap valve assembly on the storage tanks with a good mechanical seal when closed.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(4)

Description: Failure to equip the base of a ground storage tank with an ultrasonic level indicator or a water level indicator gauge.

Self Report? NO

Classification: Minor



- Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)[G]  
Description: Failure to inspect the clearwell at least annually.  
Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)  
Description: Failure to install all water system electrical wiring in a securely mounted conduit.  
Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.44(d)(1)  
Description: Failure to properly install air release devices in the distribution system.  
Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)  
Description: Failure to provide an intruder-resistant fence in order to protect the elevated tank.  
Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)[G]  
Description: Failure to use ANSI/NSF Standard 60 approved chemicals for treatment of water.  
Self Report? NO Classification: Minor
- Citation: 30 TAC Chapter 290, SubChapter D 290.39(j)(1)(B)  
Description: Failure to notify the Commission prior to making any significant change or addition to the system's production, treatment, storage, pressure maintenance, or distribution facilities.
10. Date: 07/31/2003 (329056)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
11. Date: 08/31/2003 (329057)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
12. Date: 09/30/2003 (329058)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
13. Date: 10/31/2003 (329059)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
14. Date: 11/30/2003 (329060)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
15. Date: 12/31/2003 (329061)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
16. Date: 10/31/2004 (390663)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
17. Date: 06/30/2004 (368091)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
18. Date: 11/30/2004 (390664)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
19. Date: 08/31/2004 (368092)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
20. Date: 12/31/2004 (390665)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter
21. Date: 09/19/2005 (432381)  
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(4)

Description: Failure to maintain the residual disinfectant concentration in the far reaches of the distribution system at a minimum of 0.20 mg/L free chlorine or 0.50 mg/L total chlorine as per agency regulations.

22. Date: 03/31/2003 (236726)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

23. Date: 02/28/2003 (236725)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

01/23/2002

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF MARLIN,  
RN102886892**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2005-2035-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Marlin (the "City") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, represented by Michael Dixon of the law firm Haley & Olson, P.C., presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. The City owns and operates a public water system located 1.7 miles from the intersection of FM Road 147 and Highway 6, immediately south of the dam for Marlin City Lake, Marlin, Falls County, Texas (the "Facility").
2. The Facility provides water for human consumption, has 2,606 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a

public water supply system as defined in 30 TEX. ADMIN. CODE § 290.38(63).

3. During an investigation conducted on October 19, 2005, a TCEQ Waco Regional Office investigator documented that the City:
  - a. Failed to provide an operational flow measuring device to measure: 1) the raw water supplied to the plant, 2) treated water used to backwash the filters, and 3) the backwash lagoon decant water; failed to provide rate-of-flow controllers with rate-of-flow indicators for each filter unit; and failed to equip each filter unit with an on-line turbidimeter or a device to indicate loss of head through the filter. Specifically, there was not a flow measuring device to measure: 1) the recycled decant water, 2) the treated water used to backwash the filters, and 3) the treated water discharged from the plant. In addition, the four filter units were not equipped with 1) rate-of-flow controllers with rate of flow indication and 2) an on-line turbidimeter and recorder to measure and record the turbidity level of the combined filter effluent or a device to indicate loss of head through the filter.
  - b. Failed to properly conduct and record the verification of the accuracy of the manual disinfectant residual analyzer, failed to calibrate the raw water flow meter, and failed to calibrate the continuous on-line disinfectant residual analyzer. Specifically, the verification of the accuracy of the manual disinfectant residual analyzer using chlorine solutions of known concentration had not been conducted within the last thirty days. The raw flow meter was not calibrated during the previous twelve months. The continuous on-line disinfectant residual analyzer was not calibrated every 90 days as required during the period from January 2005 through May 2005.
  - c. Failed to provide, at any residence or establishment where an actual or potential contamination hazard exists, additional protection at the meter in the form of an air gap or back-flow prevention assembly, failed to have properly installed air releases in the distribution system to preclude the possibility of submergence or possible entrance of contaminants, and failed to have an air gap on the filter-to-waste connection. Specifically, there was not a backflow prevention assembly or an air gap at the Falls County Hospital, Adam's Funeral Home, Model Laundry and Dry Cleaning, G. Glenn Rose, D.D.S., Hands on Quality Detail Carwash, City Cleaners, Falls Community Rural Health Clinic, Companion Animal Clinic, and James Bryan, D.D.S. in Marlin, two air release devices in the distribution system on FM 147 are located in below ground vaults, and there was not an air gap on the filter-to-waste connection at the surface water treatment plant.
  - d. Failed to make the water system's operating records available for review during inspections. Specifically, the following records were not available: 1) verification of ANSI/NSF Standard 61 for the interior tank coating for the Royal elevated

tank, 2) drought contingency plan, and 3) verification of plumbing code ordinance.

- e. Failed to monitor for microbial contamination at locations specified in the system's monitoring plan. Specifically, the Facility failed to monitor one of the nine sample site locations specified in the monitoring plan for any of the seven routine distribution samples during the previous twelve months.
- f. Failed to maintain an up-to-date chemical and microbiological monitoring plan. Specifically, the plan was not up-to-date because it did not provide chemical monitoring information.
- g. Failed to have at least one Class "C" or higher surface water operator on duty at the plant when it is in operation or failed to provide the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the plant is not staffed. Specifically, the City neither employs enough Class C or higher surface water operators to have on duty when the plant is in operation nor provides the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms.
- h. Failed to provide facility security by having all potable water storage tanks and pressure maintenance facilities installed in a lockable building designed to prevent intruder access or enclosed by an intruder resistant fence with lockable gates and failed to maintain plant facilities in a manner to ensure the reliability and general appearance of the system's facilities. Specifically, it was documented that: 1) there was an excessive amount of overgrown weeds at the surface water treatment plant, 2) the fence at the Depot elevated tank site was overgrown with vegetation, and 3) the barbed wire was hanging from the fence in several locations.
- i. Failed to provide a positive seal when the hatch is closed, failed to equip vents with an approved screen to prevent entry of animals, birds, insects and heavy air contaminants and failed to design overflows in strict accordance with current American Water Works Association ("AWWA") standards, terminating with a gravity hinged and weighted cover, having a pressure gauge that is not less than three inches in diameter and calibrated in not more than two foot intervals and providing overflows and other appurtenances as specified in the AWWA standards. Specifically, it was documented that: 1) the roof hatch for clearwell No. 2 does not seal properly when closed and must be provided with a gasket to make a positive seal; 2) the roof vent screen on the clearwell No. 2 was torn; 3) the overflow pipe covers did not seal properly when closed on the Depot elevated tank, Hobby elevated tank, Royal elevated tank, and clearwell No. 2; 4) the

Hobby elevated tank had a pressure gauge less than three inches in diameter and calibrated in pounds per square inch; and 5) clearwell No. 1 does not have an overflow pipe.

- j. Failed to have all water treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances maintained in a watertight condition and free of excessive solids. Specifically, the valve on the high service pump at the surface water treatment plant was leaking.
  - k. Failed to monitor the disinfectant residual at representative locations in the distribution system. Specifically, the disinfectant residual was not being monitored in the distribution system, but was being monitored only at the surface water treatment plant.
  - l. Failed to establish a restricted zone of 200 feet radius from the raw water intake works and all recreational activities. Specifically, the City does not have a city ordinance to enforce the 200 foot restricted zone at the raw water intake, and there were no signs posted recounting the restrictions.
  - m. Failed to identify influent, effluent, waste backwash and chemical feed lines by the various use of labels or different colors of paint that shall be placed at intervals of no greater than five feet and failed to label all chemical day tanks. Specifically, the liquid ammonium sulfate and polymer feed lines were identified with labels, but there were sections of the feed line that were not labeled within five-foot intervals, and the polymer day tank at the surface water treatment plant did not have a label identifying the tank's contents.
- 4. The City received notice of the violations on or about December 7, 2005.
  - 5. The Executive Director recognizes that the City changed the number of sampling site locations in the Facility's monitoring plan from nine to seven.
  - 6. The Executive Director recognizes that the City is currently building a new water treatment plant, and that the following components of the new water treatment plant are complete:
    - a. The raw water pump station;
    - b. The influent splitter box;
    - c. The filter feed wet well;
    - d. The membrane building;

- e. The ground storage tank; and
- f. The generator.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., the City failed to provide an operational flow measuring device to measure the raw water supplied to the plant, treated water used to backwash the filters, and the backwash lagoon decant water; failed to provide rate-of-flow controllers with rate-of-flow indicators for each filter unit; and failed to equip each filter unit with an on-line turbidimeter or a device to indicate loss of head through the filter, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(5), 290.42(d)(11)(D)(i), 290.42(d)(11)(E)(ii), and 290.42(d)(11)(E)(v) and Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.c.ii.
3. As evidenced by Finding of Fact No. 3.b., the City failed to properly conduct and record the verification of the accuracy of the manual disinfectant residual analyzer, failed to calibrate the raw water flow meter, and failed to calibrate the continuous on-line disinfectant residual analyzer, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1), 290.46(s)(2)(C)(i), and 290.46(s)(2)(C)(ii) and Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.vi.
4. As evidenced by Finding of Fact No. 3.c., the City failed to provide, at any residence or establishment where an actual or potential contamination hazard exists, additional protection at the meter in the form of an air gap or back-flow prevention assembly, failed to have properly installed air releases in the distribution system to preclude the possibility of submergence or possible entrance of contaminants, and failed to provide an air gap on the filter to the waste connection in violation of 30 TEX. ADMIN. CODE §§ 290.42(d)(2)(E), 290.44(d)(1) and 290.44(h)(1)(A) and Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.ii.
5. As evidenced by Finding of Fact No. 3.d., the City failed to make the water system's operating records available for review during the investigation in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2).
6. As evidenced by Finding of Fact No. 3.e., the City failed to monitor for microbial contamination at locations specified in the system's monitoring plan in violation of 30

TEX. ADMIN. CODE § 290.109(c)(1)(B).

7. As evidenced by Finding of Fact 3.f., the City failed to maintain an up-to-date chemical and microbiological monitoring plan in violation of 30 TEX. ADMIN. CODE § 290.121.
8. As evidenced by Finding of Fact No. 3.g., the City failed to have at least one Class "C" or higher surface water operator on duty at the plant when it is in operation or failed to provide the plant with continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms to summon operators so as to ensure that the water produced continues to meet the Commission's drinking water standards during periods when the plant is not staffed, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(6)(C) and Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision No. 3.a.iv.
9. As evidenced by Finding of Fact No. 3.h., the City failed to provide facility security by having all potable water storage tanks and pressure maintenance facilities installed in a lockable building designed to prevent intruder access or enclosed by an intruder resistant fence with lockable gates and failed to maintain plant facilities in a manner to ensure the reliability and general appearance of the system's facilities, in violation of 30 TEX. ADMIN. CODE §§ 290.43(e) and 290.46(m).
10. As evidenced by Finding of Fact No. 3.i, the City failed to provide a positive seal when the hatch is closed; failed to equip vents with an approved screen to prevent entry of animals, birds, insects and heavy air contaminants; and failed to design overflows in strict accordance with current American Water Works Association ("AWWA") standards, terminating with a gravity hinged and weighted cover, having a pressure gauge that is not less than three inches in diameter and calibrated in not more than two foot intervals and providing overflows and other appurtenances as specified in the AWWA standards, in violation of 30 TEX. ADMIN. CODE § 290.43(c), 290.43(c)(1), 290.43(c)(2), 290.43(c)(3) and 290.43(c)(4) and Agreed Order, Docket No. 2003-0215-MLM-E, Ordering Provision Nos. 3.a.x., 3.a.xi. and 3.c.iii.
11. As evidenced by Finding of Fact No. 3.j, the City failed to have all water treatment units, storage and pressure maintenance facilities, distribution system lines and related appurtenances maintained in a watertight condition and free of excessive solids, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(4).
12. As evidenced by Finding of Fact No. 3.k., the City failed to monitor the disinfectant residual at representative locations in the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(5)(C).
13. As evidenced by Finding of Fact No. 3.l., the City failed to establish a restricted zone of 200 feet radius from the raw water intake works and all recreational activities, in violation of 30 TEX. ADMIN. CODE § 290.41(e)(2)(C).



14. As evidenced by Finding of Fact No. 3.m., the City failed to identify influent, effluent, waste backwash and chemical feed lines by the various use of labels or different colors of paint that shall be placed at intervals of no greater than five feet and failed to label all chemical day tanks, in violation of 30 TEX. ADMIN. CODE § 290.42(d)(13) and 290.42(f)(1)(C).
15. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
16. An administrative penalty in the amount of forty-three thousand eight hundred eighty dollars (\$43,880.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in the Texas Health and Safety Code. Pursuant to TEX. WATER CODE § 7.067, forty-three thousand eight hundred eighty dollars (\$43,880.00) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of forty-three thousand eight hundred eighty dollars (\$43,880.00) as set forth in Conclusion of Law No. 16 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Forty-three thousand eight hundred eighty dollars of the administrative penalty shall be conditionally offset by City's completion of a Supplemental Environmental Project ("SEP").
2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Conclusion of Law No. 16, forty-three thousand eight hundred eighty dollars (\$43,880.00) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein

by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. Administrative penalty payments for any portion of the administrative penalty not offset by a Supplemental Environmental Project or for any portion of the Supplemental Environmental Project deemed by the Executive Director as not complete shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Marlin; Docket No. 2005-2035-PWS-E; Enforcement ID No. 27681" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

4. The City shall undertake the following technical requirements:
  - a. Within 15 days after the effective date of this Agreed Order, the City shall:
    - i. Establish and maintain a system whereby the water system's operating records are available for review during investigations, in accordance with 30 TEX. ADMIN. CODE § 290.46;
    - ii. Implement a maintenance program to ensure the reliability and general appearance of the Facility in order to reduce costly repairs due to a lack of proper maintenance, including removing the excessive amount of overgrown weeds at the surface water treatment plant and at the fence at the Depot elevated tank site, and repair the barbed wire fence at the Depot, in accordance with 30 TEX. ADMIN. CODE §§ 290.43 and 290.46; and
    - iii. Install additional labels on the liquid ammonium sulfate, polymer feed lines, and caustic feed lines at the surface water treatment plant to ensure that they are properly labeled within five-foot intervals, and label the polymer tank to identify the tank's contents, in accordance with 30 TEX. ADMIN. CODE § 290.42.
  - b. Within 30 days after the effective date of this Agreed Order, the City shall submit written certification as described below in Ordering Provision 4.p. that demonstrates compliance with Ordering Provision Nos. 4.a.i. through 4.a.iii.
  - c. Within 75 days after the effective date of this Agreed Order, the City shall:

- i. Employ the necessary operators to ensure that the Facility has the required operators when it is in operation, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
  - ii. Establish a restricted zone of 200 feet radius from the raw water intake works in the city ordinances or the rules and regulations adopted by the city, and install buoys at the raw water intake structure to designate these boundary limits, in accordance with 30 TEX. ADMIN. CODE § 290.41.
- d. Within 90 days after the effective date of this Agreed Order, the City shall submit written certification as described below in Ordering Provision 4.p. that demonstrates compliance with Ordering Provision Nos. 4.c.i. through 4.c.ii.
- e. Within 120 days after the effective date of this Agreed Order, the City shall:
  - i. Implement a procedure or schedule that ensures each of the seven sample site locations are used at least once annually for disinfectant residual sample collection, in accordance with 30 TEX. ADMIN. CODE § 290.109;
  - ii. Implement monitoring for the disinfectant residual in the distribution system according to the facility monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.110; and
  - iii. Amend or modify the chemical and microbiological monitoring plan to include all components, specifically chemical monitoring information, in accordance with 30 TEX. ADMIN. CODE § 290.121.
- f. Within 120 days after the effective date of this Agreed Order, the City shall either:
  - i. Properly conduct and record the verification of the accuracy of the manual disinfectant residual analyzer, the raw flow meter, and the on-line disinfectant residual analyzer, in accordance with 30 TEX. ADMIN. CODE § 290.46; or
  - ii. Ensure that the new water treatment plant properly conducts and records the verification of the accuracy of the manual disinfectant residual analyzer, the raw flow meter, and the on-line disinfectant residual analyzer, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- g. Within 120 days after the effective date of this Agreed Order, the City shall either:

- i. Establish and begin enforcing a formal cross-connection control program throughout the distribution system by: A) installing a backflow prevention assembly or an air gap at the Falls County Hospital; B) re-constructing the two air release devices on FM 147 that are located in below ground vaults to preclude the possibility of submergence; and C) installing an air gap on the filter-to-waste connection at the surface water treatment plant, in accordance with 30 TEX. ADMIN. CODE §§ 290.42 and 290.44; or
  - ii. Establish and begin enforcing a formal cross-connection control program throughout the distribution system by: A) installing a backflow prevention assembly or an air gap at the Falls County Hospital and B) cease operating the existing Facility, in accordance with 30 TEX. ADMIN. CODE §§ 290.42 and 290.44.
- h. Within 135 days after the effective date of this Agreed Order, the City shall submit written certification as described below in Ordering Provision 4.p. that demonstrates compliance with Ordering Provision Nos. 4.e.i. through 4.g.ii., as applicable.
- i. Within 365 days after the effective date of this Agreed Order, the City shall submit written certification as described below in Ordering Provision 4.p. demonstrating that the new water treatment plant has been completed and placed into operation.
- j. Within 15 days of the new water treatment plant being completed and placed into operation, the City shall:
  - i. Implement a maintenance program to ensure that: A) all roof hatches on clearwells are provided gaskets that make a positive seal; B) all roof vents are equipped with approved screens; C) all overflow pipe covers seal properly when closed; D) an approved pressure gauge is installed on each elevated tank; and E) overflow pipes are installed on all clearwells, in accordance with 30 TEX. ADMIN. CODE § 290.43; and
  - ii. Ensure that all equipment, including the high service pump at the surface water treatment plant is repaired and kept in a watertight condition, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- k. Within 30 days of the new water treatment plant being completed and placed into operation, the City shall submit written certification as described below in Ordering Provision 4.p. that demonstrates compliance with Ordering Provision Nos. 4.j.i. through 4.j.ii.

- l. Within 45 days of the new water treatment plant being completed and placed into operation, the City shall show that the new water treatment plant provides continuous turbidity and disinfectant residual monitors with automatic plant shutdown and alarms, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- m. Within 60 days of the new water treatment plant being completed and placed into operation, the City shall submit written certification as described below in Ordering Provision 4.p. that demonstrates compliance with Ordering Provision No. 4.l.
- n. Within 75 days of the new water treatment plant being completed and placed into operation, the City shall:
  - i. Provide flow measuring devices to measure the raw water supplied to the plant, the recycled decant water, the treated water used to backwash the filters, the treated water discharged from the new water treatment plant, and rate-of-flow controllers with rate of flow indicators for the filter units, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
  - ii. Provide each of the filter units with recorders to measure and record the turbidity level of the combined filter effluent and the transmembrane pressure through the filters, in accordance with 30 TEX. ADMIN. CODE § 290.42.
- o. Within 90 days of the new water treatment plant being completed and placed into operation, the City shall submit written certification as described in Ordering Provision 4.p. that demonstrates compliance with Ordering Provision Nos. 4.n.i. and 4.n.ii.
- p. The certifications required by Ordering Provisions Nos. 4.b., 4.d., 4.h., 4.i., 4.k., 4.m., and 4.o. shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certifications shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Frank Bureson, Manager Water Section  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

5. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

10. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date is the date of hand-delivery of this Agreed Order to the City, or three days after the date on which the Commission mails notice of this Agreed Order to the City, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Gregory Perdue

For the Executive Director

10/29/09

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Marlin. I represent that I am authorized to agree to the attached Agreed Order on behalf of the City of Marlin, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on the City's compliance history;
- Greater scrutiny of any permit applications submitted by the City;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against the City;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

Elizabeth Nelson

Signature

Elizabeth Nelson

Mayor Pro Tem

Name (printed or typed)

Authorized Representative

City of Marlin

9-08-09

Date

Mayor Pro Tem

Title

Sandra Herring

Sandra Herring  
City Secretary

Approved by Vote of  
the Marlin City Council  
at its Meeting on 9-08-09,  
at which I was present.  
Attest:

Michael W. Dixon

Michael W. Dixon  
Attorney for the City of Marlin



**Attachment A**  
**Docket Number: 2005-2035-PWS-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Marlin

**Penalty Amount:** Forty-three thousand eight hundred eighty dollars (\$43,880)

**SEP Amount:** Forty-three thousand eight hundred eighty dollars (\$43,880)

**Type of SEP:** Pre-approved SEP

**Third-Party Recipient:** Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") *Cleanup of Unauthorized Trash Dumps*

**Location of SEP:** Falls County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent shall contribute the SEP Amount to the Third-Party Recipient named above. The contribution will be to the *Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")* for the Cleanup of Unauthorized Trash Dumps project as set forth in an agreement between the Third-Party Recipient and the TCEQ. Any remaining SEP funds after completion of the Trash Dump Cleanup may, upon approval of the Executive Director, be spent on another approved RC&D project to be conducted within Falls County. Specifically, SEP monies will pay for the labor and disposal costs associated with proper clean up and disposal of wastes, debris, or abandoned tires, assistance to low-income residents with failing on site wastewater systems, plugging of abandoned wells, antifreeze recycling, or other approved project. The projects will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

The unauthorized trash dump clean up project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP. Respondent shall make 36 monthly payments to the Third Party Recipient as described in Section 2, **Performance Schedule** below.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall make one payment of \$1,250 followed by 35 monthly payments of \$1,218 for a total of \$43,880 to the Third Party Recipient. Respondent shall mail a copy of the Final Agreed Order with the first contribution, to:

Texas Association of Resource Conservation  
and Development Areas, Inc. (RC&D)  
1716 Briarcrest Drive Suite 510  
Bryan, Texas 77802-2700

Thereafter, each payment will be due on the fifteenth day of each month.

**3. Records and Reporting**

Concurrent with the each SEP payment, Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter sent to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.